

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13878, of The Lincoln Park United Methodist Church, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use the first and second floors of the subject premises as a child development center for fifty children, ages two to five years, and eight staff persons and for a variance from the off-street parking requirements (Sub-section 7202.1) in an R-4 District at the premises 1304-1306 East Capitol Street, N.E., (Square 1035, Lots 121, 71 and 74).

HEARING DATES: December 15, 1982 and February 9, 1983  
DECISION DATE: March 2, 1983

FINDINGS OF FACT:

1. The application was initially scheduled for the public hearing of December 15, 1982. The application appeared on the preliminary calendar for that date since the applicant had not complied with Section 302.3 of the Supplemental Rules of Practice and Procedure before the BZA. That Section requires that the applicant post a notice of the hearing on the property at least fifteen days before the public hearing. At the December 15, 1982, public hearing, the Board determined that the subject property was posted on December 7, 1982, eight days prior to the public hearing instead of the fifteen days required by the Rules. After discussion of the issue, the Chairman accepted the recommendation of the applicant to continue the case to allow for proper notice. The Chairman ruled that the case would be rescheduled for hearing on February 9, 1983.

2. The subject property is located on the north side of East Capitol Street approximately twenty feet east of the intersection of 13th and East Capitol Streets, N.E. and is known as 1304-1306 East Capitol Street, N.E. It is in an R-4 District.

3. The site is irregularly shaped, consisting of three lots with approximately sixty-eight feet of frontage on East Capitol Street, seventy feet on 13th Street, and fifty-nine feet on North Carolina Avenue. The site contains approximately 8,605 square feet. The site is improved with the Lincoln Park United Methodist Church with the front entrance on North Carolina Avenue, and three contiguous two-story plus basement brick row dwellings with frontage on East

Capitol Street. The row dwellings are known as 1302, 1304 and 1306 East Capitol Street. The structure at 1302 is occupied by an alcoholic outreach program. A child development center occupies the premises at 1304-1306. The subject structures occupy nearly 100 percent of the lot.

4. North of the subject church across North Carolina Avenue are row dwellings in the R-4 District. East of the site are semi-detached and row dwellings in the R-4 District. Abutting the site to the northeast is a ten foot public alley followed by row dwellings in the R-4 District. To the south across East Capitol Street are row dwellings and a non-conforming laundry and hair salon, all in the R-4 District. To the west across 13th Street is Lincoln Park.

5. The applicant requires permission to operate a child development center for fifty children, ages two to five years, and eight staff members on the first and second floors of the subject premises.

6. The child development center will consist of four classes. The largest class will have eleven students, four to five years of age. The Center will operate Monday through Friday from 7:00 A.M. to 6:00 P.M.

7. The Center is presently operating with thirty-six children and eight staff including the director, teachers, aides, cook and janitor. It has been in operation since 1977 without a valid certificate of occupancy.

8. The Center presently uses and proposes to continue to use connected floor space in the main church and the subject structures at 1304 and 1306 East Capitol Street. The main church building provides kitchen facilities, a large fellowship hall and other facilities.

9. The applicant testified that the Center has not had any complaint from neighbors since it started in 1977.

10. Areas for outdoor play will include a fenced-in area of public space of approximately 2,400 square feet, or forty-eight square feet per child, located in the front of 1302, 1304 and 1306 East Capitol Street. The Center will also use Lincoln Park across 13th Street, approximately 100 feet from the site. Outdoor play will occur between 10:00 A.M. and 11:30 A.M. with a maximum of eleven children outside at any one time. A teacher and one aide will accompany the children outdoors.

11. Traffic lights control the intersection of 13th and East Capitol Streets providing a safe street crossing for the children to Lincoln Park.

12. Areas for dropping-off and picking-up of children can occur on the north side of East Capitol Street just east of a bus zone which is directly in front of the subject property. The area east of the bus zone allows unrestricted parking. Other drop-off areas include North Carolina Avenue and "A" Street, N.E. in the vicinity of the site where there is unrestricted parking.

13. Procedures for the dropping-off and the picking-up of children would be furnished to all parents.

14. The area surrounding the site is a permit parking zone allowing up to two-hour parking without a permit. There is sufficient movement of cars on nearby streets in the morning resulting in curb space being available for the dropping-off and picking-up of children.

15. No off-street parking can be provided on the site since the structures occupy nearly 100 percent of the site.

16. Two off-street parking spaces are required for the child development center. No spaces are provided, requiring a 100 per cent variance.

17. The owners of No. 1 13th Street, N.E., which is to the west of and contiguous to the Church at the northeast corner of the intersection of 13th and East Capitol Streets, will provide one off-street parking space to the proposed center for as long as the use is permitted, as stated in Exhibit No. 25 of the record. The owners do not use their garage during the day.

18. Two of the existing staff drive to work. The six remaining staff either walk to work, take public transportation or are dropped-off by car.

19. The Board, in Case No. 12082, by Order dated April 19, 1976, approved a variance from the off-street parking requirements for a private school, the Capitol Hill Montessori School, at the subject premises 1306 East Capitol Street, N.E.

20. The Office of Licensing and Certification of the Department of Human Services, by memorandum dated February 23, 1983, reported that the area proposed for the center is 2,095 square feet or thirty-five square feet per child and that the play area is adequate for fifty-nine children. The DHS also reported that Lincoln Park, located across 13th Street, was acceptable for outdoor play.

21. The Office of Planning and Development, by report dated December 1, 1983, recommended conditional approval of the application. The OPD reported that the Department of Human Services had advised the OPD that the subject premises

can meet the applicable code and licensing requirements. The OPD noted that curb parking just east of the bus zone on the north side of East Capitol Street in front of the subject site could provide short-term parking for parents to drop-off and to pick-up children. The OPD had considered the use of the abutting public alley for the use of parents dropping-off children. That alternative proved infeasible. There is no entrance to the center from the alley and the alley is too narrow, only ten feet wide, to allow two vehicles to pass. The OPD was of the opinion that the applicant is faced with a practical difficulty in providing parking on-site. Because the site is nearly 100 percent occupied by structures, except for public space, there is no room to provide the required two spaces. The OPD further noted that there are two signs in the front yard of the center, one advertising the church services and the other, approximately two feet by three in dimension, advertising the center. The OPD did not view these signs as obtrusive in their present configuration. The OPD did not anticipate any endangerment to the children walking to Lincoln Park provided that they are attended by the staff and observe the pedestrian traffic laws. The OPD also reported that there are no other licensed child development centers located in the same square, 1035, or within a 1,000 foot radius of the subject site. The OPD was of the opinion that the application met or has the potential to meet the specific criteria of Paragraph 3101.41 and the practical difficulty test as described in Paragraph 8207.11 to support the requested special exception and variance from the parking provisions. The OPD recommended the following conditions:

- a. In an effort to reduce potential noise impacts on nearby residential properties, all fifty children should not be allowed to use the outdoor front yard play area at one time.
- b. If the applicant replaces the existing sign advertising the center, any new sign to advertise the use should not exceed 144 squares inches in area.
- c. If the application is granted, it should be initially for three years so that the progress of the center may be monitored as to neighborhood acceptance.

The Board concurs with the views and recommendation of the Office of Planning and Development.

22. Mrs. Carolyn Willard of No. 1 13th Street, N.E. a property abutting the subject site, by letter and testimony at the public hearing, advised that she supported the application. She has a child presently enrolled at the center and is satisfied with its program. She has not seen

or experienced traffic problems caused by parents picking-up or dropping-off children at the center. There are rarely more than two or three cars at the center at any one time.

23. The Capitol Hill Restoration Society, by letter dated December 9, 1982, supported the application, reporting that the proposed and future use of the property as a child development center serves the nearby neighborhood area to a considerable extent and does not impose any detectable burden on its neighbors. On-street parking is sufficient for the two staff persons who drive to work. The Board concurs with the views and recommendation of the Society.

24. A letter and a petition signed by thirty residents in the area in opposition to the application were filed into the record. The basis for the opposition was that the proposed use would aggravate an already existing parking problem and would increase traffic congestion significantly during the morning and afternoon rush hours in the 1300 block of East Capitol Street. The opposition reported that the activities of nearby churches and apartment houses are major contributors to traffic and parking problems in the neighborhood.

25. In response to the issues raised by the opposition, the Board finds that any aggravation of existing parking problems or increased traffic congestion by the center will be minimal. No persuasive evidence has been submitted to substantiate the claim that the existing or proposed center would have an adverse impact on the neighborhood. As stated by the opposition, most of the traffic and parking problems are generated by uses in the community other than the subject center. Such other uses include church activities, apartment and condominium residents and individual families with more than one car. The Board is more persuaded by the testimony of the adjacent property owner who observes the traffic generated by the center on a daily basis.

26. Advisory Neighborhood Commission 6A did not file a report on this application.

27. No one appeared in opposition to the application at the public hearing.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board finds that the application is seeking a special exception and a variance. The granting of the special exception requires that the applicant comply with the requirements of Paragraph 3101.41.

The Board concludes that the applicant has met its burden of proof. The proposed Center is capable of meeting

all applicable code and licensing requirements. The Center will not create any objectionable or unsafe traffic condition for the picking-up or dropping-off of children. There will not be a large number of parents dropping-off or picking-up children at any one time. Traffic will be distributed over the morning and evening rush hours. A pick-up and drop-off location on the north side of the 1300 block of East Capitol Street just east of the bus zone in front of the subject church is the safest and least objectionable location.

The Board concludes that the one off-street parking space provided by the owners of No. 1 13th Street, N.E. is sufficient to meet the reasonable needs of the Center. The center's staff has only two persons who drive and public transportation is adequate in the area with a bus stop directly in front of the subject site. Also, on-street parking is available on nearby streets during the day.

The Center and its outdoor play area will have no objectionable impacts on adjacent or nearby properties due to noise, activities, visual or other objectionable conditions. The outdoor play areas for the center include of the public space in front of the site and Lincoln Park, approximately 100 feet west of the site. Both areas are sufficient in size, and no more than eleven children will be outside playing at any one time. The walk to Lincoln Park will require the crossing of 13th Street, N.E. at East Capitol Street. The intersection is controlled by traffic signals and if pedestrian laws are observed, there should be no endangerment to children or staff traveling to and from the park. The Board reminds and advises the applicant that it must obtain official permission from the proper authorities to use the public space for the required play area. There is no other child development center in the square or within 1,000 feet of the proposed center.

As to the parking variance, the Board concludes that the variance requested is an area variance, the granting of which requires the showing of a practical difficulty inherent in the property itself. The Board concludes that the practical difficulty does exist. The building coverage of the site is nearly 100 per cent, making it impractical to locate a nine foot by nineteen foot parking space on-site. To do so would cause an undue hardship on the owner of the site.

The Board further concludes that the requested relief can be granted without causing substantial detriment to the public good. The center will provide a needed service to the community. However, the Board notes that the applicant has been operating the child development center without a proper certificate of occupancy. The Board does not look favorably upon such violations and directs the applicant to

obtain the proper certificate of occupancy and cease such illegal actions.


The Board is further of the opinion that the relief can be granted without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is hereby GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be limited to a period of THREE YEARS from the date of this Order.
2. The use shall be limited to operation of the facility by the Lincoln Park United Methodist Church Child Development Center.
3. The number of students shall not exceed fifty.
4. The number of staff shall not exceed eight.
5. The hours of operation of the center shall not exceed from 7:00 A.M. to 6:00 P.M.
6. One parking space shall be provided at No. 1 13th Street, N.E. as indicated on Exhibit No. 25 of the record, for as long as the center is in operation.

VOTE: 3-1 (William F. McIntosh and Charles R. Norris to GRANT; Walter B. Lewis to GRANT by PROXY; Douglas J. Patton opposed to the MOTION; Carrie Thornhill not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: MAY 31 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

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